

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

DANIEL JIMENEZ

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Case No. 4:09cr206
(Judge Schell)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 13, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Bryan Sample. The Government was represented by Ernest Gonzalez.

On November 29, 1999, Defendant was sentenced by the Honorable G. Patrick Murphy to seventy-seven (77) months' custody followed by five (5) years of supervised release for the offense of Conspiracy to Commit Bank Fraud, Bank Fraud, and Conspiracy to Commit Money Laundering. On March 21, 2006, Defendant completed his period of imprisonment and began service of his supervised term. On November 17, 2009, this case was transferred to this District from the Southern District of Illinois and assigned to the Honorable Richard A. Schell.

On September 10, 2009, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) defendant shall not commit another federal, state, or local crime; and (2) defendant shall not unlawfully possess a controlled substance. The petition also alleged a violation of the standard condition that defendant shall not leave the judicial district without the permission of the court or probation officer. The petition also alleges a violation of the following special

condition: the defendant shall pay any financial penalty that is imposed by this Judgment and that remains unpaid at the time of supervised release.

The petition alleges that Defendant committed the following acts: (1) On or about August 2008 through August 11, 2009, Defendant committed the offense of Possession with Intent to Distribute 5 kilograms or more of Cocaine; (2) On or about August 2008 through August 11, 2009, Defendant possessed cocaine; (3) During August 2009, Defendant left the supervising district without permission of the Court or probation officer; and (4) Defendant failed to make payments toward his Court ordered restitution during the months of October 2006; January, April, October and December 2007; February, May, July, October through December 2008; March, April, June, and July 2009.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked. The Court finds the guideline range in this case is 30 to 36 months.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirty (30) months with no supervised release to follow.

It is further recommended that the defendant pay restitution in the amount of \$85,979 to Bank One, P.O. Box 970161, Dallas, Texas 75397. The restitution is due immediately, payable by cashier's check or money order, to the United States District Court, 750 Missouri Ave., E. St. Louis, IL 62201.

After the Court announced the recommended sentence, Defendant executed the consent to

revocation of supervised release and waiver of right to be present and speak at sentencing.

Defendant and the Government also waived their right to file objections.

SIGNED this 14th day of July, 2010.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE